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ART. I. — *Reports of the Commissioner of the General Land-Office*, 1858, 1859, 1860. Washington: Printed by the Public Printer.

WE have thought that literature — especially periodical literature — bestows its honors upon abstract and ancient topics to the neglect of the practical things of the present. It seems to recognize more dignity and importance in the controversies and strifes of barbaric nations, if time has only covered them with its venerable veil, than in the realities of our own day. The fine frenzy of the poet rarely condescends to people present scenes with its fair images; what little he gives us about contemporary men and things, is apt to be rhyme without inspiration. But this was not always so. It was a wise stroke of statesmanship in Augustus when he induced Virgil to write the *Georgics*. The charming pictures of the serene enjoyments of agricultural life which the great poet drew, inflamed the Roman people with new zeal for the labors of the soil, and once again restored fertility and verdure to fields which had long lain in barrenness and decay. We wish some “rural Maro” would appear in these times to kindle a more ardent and universal taste for the cultivation of the earth, by the sublime example of those “awful fathers of mankind” who

“held the scale of empire, ruled the storm
Of mighty war; then, with unwearied hand;

*Disdaining little luxuries, seized
The plough and greatly independent lived."*

The area of public lands yet unoccupied in the limits of the United States amounts to upward of one million four hundred and seventy-eight thousand square miles ; a surface out of which thirty-seven States may be formed as large as the State of Ohio. And whoever shall live to calculate its extent from actual survey will, we apprehend, find our estimate altogether too small. Of this area the Indian title is extinguished to only about an eighth part, and the remainder is therefore not yet subject to settlement.

Whether we contemplate this mighty domain from the student's closet or from some horizon-bounded expanse amid its solitudes, its grandeur is not overwhelming ; for as the poet describes the mind as grown colossal by the majesty, power, and beauty of St. Peter's, so does it expand at the contemplation of this imperial wilderness, and of the Providence which destines it for the abode of civilization.

It is a peculiar fact, that, in proportion as our territory has been remote and unknown, the tendency has been to depreciate its quality and value. Hence it is that very much of our fertile territory is already condemned to gloomy and desolate sterility. Military expeditions have done much, however, to redeem the Western wilds from this unhappy doom, and to open the way to their cultivation. It was the expeditions to suppress hostile Indians that led to the discovery of the rich bottoms and towering forests watered by the Ohio. Once the whole of Kansas was thought unfavorable for agriculture ; but the volunteer troops who crossed it in 1847, on their way to the Mexican war, sent back glowing descriptions of the luxuriant verdure which covered its rolling prairies ; and many of those men have since returned thither to settle. We think there can be no doubt that by far the greater portion of the unoccupied territory of the United States will prove available to the wants of civilized men. By some it was supposed — certainly it was said — that beyond the boundaries of Iowa the country bordering on the Missouri, especially in what is now commonly designated as Dacotah, was an arid plain. The explorations of Nicollet, however, in 1839, established a much

more satisfactory state of facts. He was a man of science, and his report shows a constant aim to be exact and truthful. He tells us that the Big Sioux, one of the largest rivers in Dacotah, flows three hundred and fifty miles "through a beautiful and fertile country." And the Surveyor-General, in his Report for 1859, says of the surveys in that territory: "So far as returned, the notes of the deputy present a most favorable report as to the character of the country over which his lines passed, and there is little doubt but that it will be rapidly settled." Mr. Nicollet states, that from the eastern border of the Coteau des Prairies "the prospect is magnificent beyond description, extending over the immense green turf that forms the basin of the Red River of the North," and that "there can be no doubt that in future times this region will be the summer resort of the wealthy of the land."

Or let us follow the Missouri to its head-waters, and explore the diversified country among the mountains, and we find a region, from Fort Benton to Fort Walla-Wallah on the Columbia, a distance of six hundred miles, which, the Secretary of War tells us in his last annual Report, is "capable of sustaining a large population," and over which three hundred recruits performed a march in less than sixty days. Fort Owen on this route is situated in Bitter Root Valley, which is eighty miles in length, and averages about eight miles in width. Dr. Sackley, in the official report of his reconnoissance in 1853, says: "The soil of the valley is exceedingly fertile. Cattle do not generally require foddering in the winter, the snows are so light. All the numerous streams abound in fine trout. Grouse in the valleys, and in the mountains bear, deer, elk, beaver, and mountain sheep, are abundant." Concerning the Flathead section, Mr. Engineer Tinkham says: "The general valley of Flathead River and Lake, including the valley where the Hudson's Bay Company's small trading-post is, I consider as one of the most desirable for settlement, having much fertile soil and wooded lands, with all the other desirabilities of good wood and timber, pure water and air, and agreeable locations. Residences on the lake will be most agreeably situated for attractive scenery; and advantages of water communication are of considerable extent. The river

abounds with fish, mostly salmon and trout." What seems to exceed anything in mythology is the paradise in Hell Gate valley. In this valley, the same authority assures us, "There are many agreeable and promising locations for farming, where a good soil, plenty of good wood sufficiently near for lumbering or fuel, pure cool water, good grazing, and healthy climate, and a pleasing prospect, are inducements not often found united; and are sufficiently attractive to throng these mountain valleys at no distant day with a central population of vast importance." "From the confluence," says Mr. John Lambert, "of the rivers near Hell Gate, the main route avoids the difficult part of Bitter Root Valley, turning on a course directly north about twenty miles through a picturesque defile to an extensive and fertile prairie on Jocko River, where numbers of wild horses were seen." The same gentleman, remarking upon the mountain region, says that the "*available* country in the valleys and prairies can be reckoned — it is not too much to say — by thousands of square miles." Lieutenant Mullan pronounces the Bitter Root Valley one of "perennial spring"; and "not only capable of grazing immense bands of stock of every kind, but also capable of supporting a dense population. The mountain slopes on either side of the valley, and the land along the base of the mountains, afford at all seasons, even during the most severe winters, grazing-ground in abundance, while the mountains are covered with a beautiful growth of pine." "This section," he says, "connects with another of equal, if not superior importance, — that of the Cœur d'Alene country, which again connects directly by a beautiful section with the country at and near Walla-Wallah; thus showing that, from the main chain of the Rocky Mountains to the mouth of the Columbia, we possess a rich, fertile, and productive area." Of the timber resources of the country still nearer the Pacific, the Surveyor-General of Washington Territory, in his Report for 1859, says: "The magnificent fir and cedar forests of this region give employment to some twenty saw-mills, some of which employ four hundred men, and furnish cargoes of sawn lumber for some forty vessels employed in transporting this article of commerce to India, California, South America, and the islands of the Pacific."

These passages have been taken somewhat at random from voluminous testimony of an authentic character. Much more testimony of the same character might be quoted as to the advantages of other localities along the northern route to the Pacific. Concerning the resources of the country farther south, so much has been made known by the interesting narratives of Colonel Fremont and others, that it is unnecessary here to make particular reference to them.

The method of disposing of the public lands, and even of surveying them, which obtained from 1796 up to 1820, differed in many respects from the method now in operation. First, the land was divided into townships of six miles square by north and south lines, run according to the true meridian, and by others crossing them at right angles. Alternate townships were to be subdivided into sections, of six hundred and forty acres each, "by running through the same, each way, parallel lines at the end of every two miles, and by marking a corner on each of the said lines at the end of every mile," — the sections to be numbered progressively, beginning invariably at the northeast corner, and proceeding west and east alternately. It was made the duty of the surveyor to mark, at each corner so made, the number of the section and of the township within which it was situated; and to note in his field-book the situation of all mines, salt-springs, mill-seats, and water-courses, and also the quality of the lands. The surveyor was then required to make a plat of the township, one copy of which was kept in the office of the Surveyor-General, another sent to the department at the seat of government, and another deposited in the local office of the district in which the lands were situated. The compensation of the deputy-surveyors was not to exceed three dollars per mile. Four sections in each township were reserved for the future use of the government. The rest was sold to the highest bidder, at a price not less than two dollars per acre. The alternate townships which were *not* subdivided were offered for sale at the seat of government, in quarter-township tracts, — exclusive of the four reserved central sections, — each quarter-township comprising eight sections, which would be equal to 5,120 acres. The lands were also sold on credit, the purchaser being required to deposit

one twentieth part of the purchase-money at the time of the sale, and to pay a moiety of the sum bid within thirty days, whereupon he was allowed a credit of one year for the residue ; but in case he failed of the punctual payment of that residue at the expiration of the year, the land reverted to the United States.

Under the operation of this credit system, many purchasers, of course, were unable to make payment within the prescribed time, and suffered forfeiture. We find, therefore, that numerous appeals were made to Congress for relief ; and it was probably the growing evil of private or special legislation demanded of Congress on this account, that led to the abandonment of the credit system. It was abolished in 1820, and the minimum price was reduced from \$ 2 to \$ 1.25 per acre. Since that period, it has been required that every township should be subdivided, and, when offered at public sale, should be sold in tracts of eighty acres. The charges of \$ 4 for issuing a patent for half a section, \$ 5 for a whole section, and \$ 20 for a quarter of a township, have also been abolished ; patents being now issued, in due course of business, without charge.

The standard price of the public lands is now \$ 1.25 per acre, except that, in sections alternate to those which have been donated in aid of railroads, within six miles of such roads the price is \$ 2.50 per acre ; and excepting also the price fixed under the Graduating Act. This last-mentioned act was passed in 1854, as a sort of compromise for the Homestead Bill, and provides for the disposal of lands which have been in market ten years at one dollar per acre ; those that have been in market fifteen years, at 75 cents per acre ; those that have been in market twenty years, at 50 cents per acre ; those that have been in market twenty-five years, at 25 cents per acre ; and those that have been in market thirty years, at 12½ cents per acre.

As early as 1811, one section in each township was reserved for the benefit of public schools. Now, in each township, two sections, the 16th and 36th, are reserved for that purpose.

It appears that for the year ending June 30, 1859, 3,961,581.20 acres were sold for cash, yielding \$1,628,187.13 ; that 2,941,700 acres were located in satisfaction of bounty land-warrants ;

1,530,966.76 acres approved to different States under swamp grants; and 5,106,015 acres certified to certain States for railroad purposes.

During the year ending June 30, 1860, and the succeeding quarter, 9,649,471 acres were surveyed, and prepared for market; and 12,060,053.72 acres were disposed of as follows: 3,977,619.80 acres were sold for cash, yielding \$ 2,021,425.97; 3,379,040 acres were located in satisfaction of bounty land-warrants; 2,037,770.92 acres approved to States under the swamp grants; and 2,665,623 acres certified to different States under the railroad grants.

Our public-land system employs constantly four hundred and twenty salaried officers, beside the deputy or practical surveyors. The annual expenses are as follows:—

Salary of Commissioner of the General Land-Office, . . .	\$ 3,000
Salaries of 124 clerks and other <i>employés</i> in Commissioner's Office, ...	161,690
Contingent expenses in same Office, ...	65,000
Offices of Surveyors-General, salaries from \$ 2,000 to \$ 4,500 per annum, with ten clerks on an average to each office, office rent, &c., ...	145,687
Eighty-seven local offices, Register and Receiver to each, with salaries of \$ 500 each, beside fees, ...	87,000
Expenses of surveying, ...	215,000
Total, ...	\$ 677,377

We have the satisfaction of assuring persons who are seeking positions in this branch of the public service, that the following instances of inconvenience and sacrifice are exceptions to the general rule. Rooms appear to be scarce at \$ 500 per annum in Great Salt Lake City:—

“The only apartment I have occupied since my arrival, and in which I have to hold counsel on matters connected with the surveying service, and on others involving important public interests, is a very small *dark* room, destitute of a stove or fireplace. In this apartment I have so far been compelled to transact all my business.”—*Report of Surveyor-General of Utah, 1859, Commissioner's Report for 1859, p. 200.*

The Surveyor-General of Florida suffers the loss of a part of his salary by the discount on treasury drafts:—

“On the receipt of the treasury draft, owing to the scarcity of money, no banks, and the little commerce of the place, it is impossible to obtain either gold or silver, or their equivalents, for the draft; and we are compelled to deposit them with some merchant, and trade out the principal part of it, at his own prices, for supplies, receiving a portion in such bank-bills and shin-plasters as he may be in possession of. I have not known of a single draft being disposed of here by one of the *employés* where one third of the amount could be obtained in specie.” — *Report of Surveyor-General of Florida, 1859, Commissioner's Report for 1859, p. 104.*

We have already mentioned the method of surveying the public lands prior to 1820. By the act of April 20th of that year, the public lands are subdivided into tracts of half-quarter sections, which comprise eighty acres. On the plats, the land is further subdivided into forty-acre tracts; and it often happens that, on meandering rivers and lakes, tracts are divided into smaller fractions; but there are no monuments to denote these on the land, and they can be ascertained only by first ascertaining the section and half-section lines. The *range* of townships is the north and south series in which they lie. In going upon surveyed public land, the observer ascertains the particular subdivision on which he is by the monuments and inscriptions made by the surveyor, which are *section* or mile posts at the corner of each section, having marked upon each the number of the section, township, and range, and *quarter-section* or half-mile posts, having on them the mark, $\frac{1}{4}$ S. Deputy surveyors employed in subdividing townships receive, on an average, \$5 per lineal mile, and a company of six surveyors average six miles per day. They are instructed to plant seeds of trees on prairie land; but this is seldom observed, as there is no law absolutely requiring the service. The Surveyor-General of Washington Territory states that the Lieutenant-Governor of British Columbia has adopted the United States system of surveys in that colony as “the best known mode of laying off wild lands.”

The practical policy of the United States has been, to use the public lands as a source of federal revenue. Such was the early policy of the government; and it appears yet to be dictated by the letter of the statutes now in force, if not by

their spirit. But consider how inadequate they are for this purpose. We have seen that, for the year ending June 30, 1859, the cash proceeds were a little upward of a million and a half of dollars. Deduct from this sum the annual expenses of the system, which are over half a million of dollars, and we have a million of dollars left. But is this revenue? On the contrary, it is refunding into the treasury what has, perhaps, already been paid out to extinguish the Indian title to those lands.

But the proceeds of the sale of public lands are still more untrustworthy than inadequate. As the ordinary means of revenue languish and fail, so in a far greater ratio do the sales of public lands diminish. When commerce thrives, duties on imports fill the treasury to overflowing. Then capital, abundant and enterprising, pushes on improvements in the wilderness, and attracts thousands of additional purchasers of the public lands. And so, when there comes a revulsion, and duties on imports diminish, the same reaction affects the sale of lands. These facts are demonstrated by the actual experience of the treasury, as will be seen by the receipts from revenue during the year when trade and speculation were at their height, just preceding the revulsion of 1857, and the receipts during the year succeeding the revulsion:—

Receipts into the treasury for the year ending June

30, 1856, from customs, ...	\$ 64,022,863.50
Sales of public lands, ...	8,821,447.03

Receipts into the treasury for the year ending June

30, 1859, from customs, ...	\$ 49,565,824.38
Sales of public lands, ...	1,628,187.13

Thus we see that, when the treasury is becoming empty from the decrease of duties on imports, the sale of the public lands equally declines.

Let us, in the next place, consider the general effect upon the country of treating the public lands as a source of revenue, and, as a part of such policy, hurrying them into market. One effect is, to transfer the title to a large quantity of such

lands to non-resident capitalists, who are content to suffer them to remain in a wild condition for several years, till they rise in value. The first settlers in a new country will prefer to advance farther on the frontier, and purchase of the government at the minimum price, rather than pay a profit to the capitalist or speculator. Large tracts of land, extending for miles without an improvement, are therefore found in new States and Territories, between populous settlements, which the emigrant is obliged to pass over in pursuit of a frontier home. These wild tracts thus intervening among settlements are an inconvenience in respect to the construction of roads, and other internal improvements, and, while they give an inhospitable appearance to the frontier, also tend to retard its growth. They gradually rise in value. And why? Because the frontier man finally surrounds them with his cultivated fields, crosses them with convenient roads, and, by his toil, makes them desirable and valuable to a wealthier class of settlers, who generally wait till the frontier is disarmed of its privations. It is true, such unoccupied lands are taxed; but that is no equivalent for their remaining idle, since, if occupied and cultivated as they would have been if left to the actual settler, they would not only have produced a higher tax to the State or Territory in which they are situated, but the occupation and cultivation of them would have contributed to that general development and increase, the toil of which must first prepare a way for affluence and civilization. In any view of the subject, therefore, the sale of the public lands faster than they are required for actual use is of no benefit to any one but the non-resident purchaser, and is an incalculable evil to the frontier. The government has substantially admitted this. President Buchanan, in his inaugural address, said, "It is our cardinal policy to reserve these lands, as much as may be, for actual settlers." And Mr. Commissioner Hendricks, in his annual Report for 1856, says:—

"Except so far as Congress may make grants to the land States and Territories in aid of educational and internal improvement purposes, *it is believed to be the true policy of the government to secure the public lands to actual settlers thereon, and withhold them, as far as practicable, from speculators.* This may be accomplished under the

present system by a slight modification of the pre-emption laws. In the case of lands not subject to private entry, not having been offered at public sale, the existing laws prescribe no limited period within which the pre-emptor shall complete his entry by the requisite proof and payment, except that it shall be done before the time fixed for the public sale of the land. To compel a consummation of the entry, it is necessary to proclaim the land for public sale. Were a time fixed by law, within which the proof of settlement and improvement should be presented and payment made, *it would obviate the necessity of public sales, and leave the entire domain to the settlers under the pre-emption laws.* An amendment of the act of 1841, with this view, is recommended."

Mr. Secretary Thompson, in his Report for 1857, recommends an amendment to the laws requiring "that settlers upon unoffered lands should be required to make their proof and payment within a specified period," and says:—

"The policy of the law is to favor the actual settler. It is a humane, wise, and just policy. When the hardy pioneer breaks off from the comforts and security of a long-settled community, and encounters the hazard and endures the hardships and deprivations of a new settlement in the forest, he has *rendered a positive service to the government*; and to deny him the right of securing his home and improvements, in preference to all others who would profit by his sacrifices, would be a crying injustice."

In 1859, on motion of Mr. Grow, the House of Representatives of the United States, by a vote of 98 to 81, adopted the following amendment to a bill: "No public land shall be exposed to sale by proclamation of the President, unless the same shall have been surveyed, and the return of such survey duly filed in the Land-Office, for ten years or more before such sale"; but the bill to which it was attached was finally defeated.

The bringing the public lands into market works a further and greater injury to the frontier than has been mentioned. After these lands have been *offered* at public sale, they are subject to *private entry*, and may be purchased at the local land-office in tracts of forty acres or forty times that quantity, at one dollar and twenty-five cents per acre, by any one who has the money. This gives an advantage to the specu-

lator over the actual settler; for the former, if he does not personally examine the land, can to a reasonable certainty satisfy himself of its quality by an examination of the plats of the survey, and the field-notes descriptive of the land, on file at the local land-office. He can thus cull out the best tracts of timber in the forest, and of luxuriant prairie on the shore of a beautiful lake, in advance of the settler, and can straightway leave the country. It happens, therefore, that, although a small quantity of lands may be disposed of during the public sale, speculators are wont to hover around the land-office soon after the sale is concluded, when they can make their selections with more deliberation. In this way large portions of the public land are purchased by persons who expect never to see them, and never to lay out a dollar for their cultivation. So we perceive that, as soon as the pioneer has overcome the disadvantages of a previous land sale, has partially surrounded himself with the comforts bought by continued industry, and welcomed the tardy and faltering approach of order and security, — after he has cut his way to a market, and rendered the land beyond him attractive to others who wish to try their fortunes in the wilderness, — another land sale is ordered, and enjoins to long solitude a region which soon might have smiled with harvest fields and villages.

Let it be observed that we are not now inquiring into the justice of this system, nor into the rights of either party in the premises, but simply as to the effects of the system; and we do not hesitate to assert, that these effects are not only a permanent hinderance to the prosperity of the frontier, but a positive calamity.

It cannot require any argument to show that what is detrimental to the agriculture of the new States and Territories must necessarily be injurious to the general interests of the country. It is so because it lessens the general abundance of the products of the earth, and discourages thousands in our crowded communities from pushing their way to the public lands and engaging in the laudable and vigorous employment of their cultivation.

But, say the advocates of the system of public sales, there are 74,468 military bounty land-warrants outstanding, which

will require upward of eight millions of acres, and justice to the holders of these requires that the lands should be brought into market. We do not perceive that justice requires any such thing. It is true that after a public sale, as we have seen, there is a better opportunity for the private entry of lands, either by cash or the location thereon of land-warrants, and so a public sale cannot fail to raise the price of warrants; but if no sale takes place, there is yet a daily demand for warrants by pre-emptors, who almost invariably make payment with them.

Under the acts of Congress of 1847, 1850, 1852, and 1855, the number of warrants which had been issued up to September 30, 1859, was 525,008, requiring for their satisfaction the enormous quantity of 56,920,130 acres, — 88,937 square miles, — an area almost as large as both the great States of Illinois and Indiana. These warrants, it is well known, are seldom located by the party to whom they are issued, but are sold for money, generally at considerable discount, and become the capital of stock-brokers and speculators. Now, can this practice of issuing warrants be discontinued without injury to the military service? We believe that it can be. If the ordinary pay of soldiers is not enough, let the deficiency be made up to them in money, in which case they will receive all the government pays; which is not the case in respect to warrants. Fishing bounties are paid in money, and why not military bounties? Probably one third of the immense domain which has been absorbed by warrants will remain in its natural condition as the subject of speculation, and as an obstacle to the development of the West for ten years to come. And is this economy? Is it statesmanship? In our opinion it is far otherwise. Nor is there any sufficient excuse for so short-sighted a policy, except that it was inaugurated before the popular mind had begun to place a just and proper estimate upon the value and uses of the public domain.

There is one way, perhaps, in which small portions of the public lands might be appropriated as a bounty. If fishermen and soldiers deserve a bounty, why should not the pioneer have one, in consideration of the sacrifices he endures and the benefits he confers by opening the wilderness? Would it not be

conducive to the best interests of the country to bestow a small tract of land upon the settlers of our territories, as a bounty for a certain number of bushels of grain per acre which they should produce for two or three years in succession of the first years after their settlement, or for a specified amount or value of live stock to be raised ?

The right of *pre-emption* is the right given over all other claimants to a person to enter, at the minimum price, a quarter-section, or smaller quantity, of land, upon which he actually resides and has made improvements. This right was recognized and granted to settlers in different localities by special, and sometimes by general acts of Congress, from a very early period in the history of the government. Up to 1841 it had always been extended as a measure of relief or indulgence, and not as a right to be enjoyed in the future. When the act of 1838 — which granted the right of pre-emption to those who had settled prior to December 1, 1837 — was before the Senate, Mr. Webster, in giving it his hearty support, encountered earnest remonstrances from his party friends. His course seems to have excited surprise. In reply to Mr. Clay, he said, “Notwithstanding the surprise which it has pleased the honorable member from Kentucky to express at my support of this bill, I shall continue that support.” Mr. Webster also encountered the earnest opposition of his colleague (Mr. Davis) from Massachusetts; and in further discussion of the bill made the following remarks, which are quoted to show that the pre-emption principle had not then acquired a permanent footing: —

“Much has been said of the general character of these settlers. I have no extensive information, sir, on that point, and had not intended to say anything upon it. But it has so happened that I have recently been in the Northwest, and have met, for a short time, with many of these settlers; and, since they have been spoken of here with so much harshness, I feel bound to say that, so far as my knowledge of them goes, they do not deserve it. *Undoubtedly, sir, they are trespassers in the contemplation of law.* They know that very well. They are on the public lands without title; but then they say that the course of the government heretofore has been such as to induce and encourage them to go where they are, and that

they are ready and willing to do all that government has required from others in similar circumstances ; that is, to pay for the lands at the common price. They have the general character of frontiersmen ; they are hardy, adventurous, and enterprising. They have come from far, to establish themselves and families in new abodes in the West. They appeared to me to be industrious and laborious ; and I saw nothing in their character or conduct that should justly draw upon them expressions of contumely and reproach." — *Works of Daniel Webster*, Vol. IV. pp. 398, 399.

The act of September 4, 1841, was a general act, which secured the right of pre-emption to settlers who might *thereafter* in person occupy, improve, and reside upon a tract of land not exceeding 160 acres. Those who can avail themselves of it are heads of families, or single persons upward of twenty-one years of age, who are citizens of the United States, or who have declared their intention to become citizens. The person claiming the benefit of the act must, after he has made his settlement, file a declaration of the same in writing with the register of the land-office in the district in which the land is situated, specifying the particular subdivisions of land he claims. He may settle upon any subdivision less than 160 acres ; but whatever tracts he claims must be contiguous. If the settlement is on a regular quarter-section, proof of improvements in one place will be sufficient ; but if the settlement is on subdivisions, though contiguous, in different quarter-sections, there must be proof of improvements on each of the subdivisions. It is immaterial what sort of a dwelling or of improvements may be put on the land, providing they are executed in good faith ; nor is there any standard value by which they are to be measured. Accordingly it happens that the humblest log-dwellings, without floor or plastering, are held to fulfil the statute, if they are actually occupied as residences. In a contested case, where it was in evidence that one party lived in a log shanty, in the side of which there was a hole large enough for a man to put his head through, the department, on appeal, held that such a dwelling was sufficient, inasmuch as it satisfied the settler, and was occupied in good faith. The settler can commence his settlement by any improvements or labor he chooses, either by marking his claim,

cutting timber for a dwelling, ploughing, or by any other work. He is required to use ordinary diligence in perfecting his improvements; but if circumstances, whether of health or pecuniary condition, make it reasonable that he should be absent for a part of the time, he will not thereby lose any right. It has, therefore, been held, that where a pre-emptor was a mechanic, and for the time being could earn more by working in a village near his claim, the fact that himself and family resided in such village the greater part of the time after his settlement, and previously to proving his claim, — it appearing at the same time that his improvements and occupancy of the claim showed a *bona fide* intention to make it his home, — did not debar them from pre-empting. So if a person should in good faith commence a settlement, and then be driven off by force, he could pre-empt even if he had not occupied the land a day, if the force or violence had been such as to deter a man of ordinary prudence from keeping possession. It seems that a settler is authorized before paying for the land to cut timber enough for his improvements and fuel, but for no other purposes. He must furnish proof of his settlement, residence, improvements, citizenship, and other personal qualifications, and also must prove that he did not remove from land of his own in the State or Territory where the land settled upon is situated, by one or more credible and disinterested witnesses, whose testimony must be reduced to writing, signed, and sworn to before the local land-officers. The pre-emptor must also make affidavit that he has never before had the benefit of any right of pre-emption under the act in question; that he is not the owner of 320 acres of land in the United States; that the settlement was not made for speculation; and that he has made no contract in any way or manner by which the title he may acquire from the government will enure to any other person than himself. Where the land has not been offered at public sale, and is not therefore subject to private entry, the settler is required to make payment at any time before the day of sale; but if it is subject to private entry, he is required to make payment within a year after the date of his settlement. If he purchases with a military warrant for one hundred and sixty acres, he pays a fee of two dollars to the Register and

two to the Receiver. Till the autumn of 1856, land-officers enjoyed the monopoly of drawing up pre-emption proofs. The charge was then five dollars for each proof, and the salaries of the officers generally reached \$6,000 per annum, or upward. Since that period the officers have not been allowed to charge that fee for this service. The consequence is, that they do not often perform it; and in the neighborhood of most offices competition has reduced the charge to \$2.50.

By virtue of an act passed in 1854, applicable to some of the new States and Territories, persons are authorized to make a settlement and acquire an inchoate right of pre-emption (on lands to which the Indian title has been extinguished) before they are surveyed; and if it happens that two persons claim the same or a part of the same tract, the officers are directed to apportion the land between them equitably, so that each settler, as far as practicable, may enter the tract containing his improvements.

Where an adverse claim is set up to the land by another person, the party wishing to have the right determined, with a view to make payment, first procures a day of hearing to be fixed by the Register and Receiver, and then gives notice in writing to the adverse claimant of the time for the hearing, allowing one day at least for every twenty miles' travel to the land-office. The United States laws furnish no compulsory means for procuring the attendance of witnesses in such cases; and the party must rely upon such means as he can personally command. The parties find it necessary to employ attorneys to manage their case and take the testimony. The evidence is committed to writing in the form of question and answer, and it is therefore seldom required of officers to give the case much attention till it is concluded. If a question is propounded which the adverse party considers improper, he merely writes down his objection, and the admissibility or inadmissibility of the answer is determined upon at the time the officers make their decision. When the case is decided, if either party is dissatisfied, he can appeal to the Interior Department by filing a written request for the opinion of the Commissioner upon the case. There is also an appeal from the Commissioner to the Secretary. The likelihood of an

appeal is one of the principal reasons for having the evidence reduced to writing, as it can then be forwarded to the appellate officers. The losing party has the privilege of making a settlement on some other tract, and of filing another declaratory statement; but the changing of a declaratory statement is rarely allowed in any other instance.

The government has held that negroes, not being citizens of the United States, are not entitled to the benefit of the pre-emption act.

We come now to consider briefly the policy of donating lands to actual settlers, commonly called the *Homestead* measure.

On the 4th of August, 1842, a homestead act was passed for Florida, under the peculiar title of "An Act to provide for the *armed occupation* and settlement of Florida." The title must have been intended to be understood in a Pickwickian sense, as the only bearing the act had on military matters was the provision that *single* men, upward of eighteen years of age, *capable* of bearing arms, should have the benefit of the act, as well as heads of families. It donated 160 acres, and required the settler to reside upon the tract for four consecutive years at least; to erect a dwelling, and clear, enclose, and cultivate at least five acres. Only 200,000 acres were allowed to be taken under the act.

On the 27th of September, 1850, a homestead law was passed for settlers in Oregon, granting 320 acres to every unmarried white settler above the age of eighteen years (American half-breed Indians included) who was a citizen of the United States, or had declared his intention to become such, and who had already made, or should make settlement, previously to the 1st of December, 1850. If the settler was married, he was to have 640 acres, one half to his wife, to be held by her in her own right. The settler was required to reside upon the tract, and cultivate the same four consecutive years previously to obtaining title.

Another homestead act was passed July 22, 1854, for the benefit of settlers in New Mexico, donating 160 acres to each settler who was residing in that Territory prior to the 1st of January, 1853, and who was still residing there at the time of

the passage of the act. It also donated the same number of acres to settlers who should make settlement between the 1st of January, 1853, and the 1st of January, 1858, requiring occupancy and cultivation for a period of four years.

A general homestead bill passed both houses of Congress by a large majority in the spring of 1860, but was vetoed by the President. This bill granted 160 acres to each settler, and required the payment of a small sum of money — ten dollars, we believe — to avoid constitutional objections which might be entertained against an absolute donation. It also permitted those who had already made settlement to purchase at half the minimum price. We may here remark, that, owing to the comparative abundance of money, there was but little demand made for a homestead act previous to 1857; but since the severe revulsion of that year, the desire for such a measure has been constantly increasing.

Various objections have been urged against the donation of public lands to settlers. By some it is asserted that such a measure does not come within the principle on which grants are made in aid of railroads; namely, an equivalent benefit to the government by the enhanced value of the remaining lands. But to this it may be replied, that, until the frontier is settled, the government is subjected to millions of dollars' expense annually, to sustain military posts on the frontier, and that the settlement of the wild lands will be a pecuniary benefit to the country in hastening the period when those posts may be dispensed with. Even at the pace with which settlements have advanced for the past few years, three important and expensive military posts in the valley of the Upper Mississippi—Forts Atkinson, Crawford, and Snelling—have thereby been discontinued.

Again, it is urged that, the public lands being the property of the United States, each State is entitled to a share of their value, and they should, therefore, be disposed of as a source of revenue. But we have shown that as a means of revenue they yield the least when most needed, and are scarcely material for revenue. In respect of their value to the share to which each of the States is entitled, how, we ask, can the people of each State derive a greater benefit from them than in

enjoying the free privilege of occupying them? Is it not a benefit to the older and populous States to part with their surplus population? Who, indeed, is there to take advantage of a homestead act, but the people of those States? They are the very persons who are the most anxious for such a measure, and they chiefly will enjoy the benefit of it.

Another objection, and one that has been raised by men in high authority, is, that the measure would be an injustice to those who have made settlement on the frontier, inasmuch as they who enjoy its benefits will obtain land which has become more valuable from contiguity with the neighborhood and improvements of older settlers. In other words, because one settler has endured the privations of the wilderness, and paid for his lands, another settler should not get his any the more easily! But will not the present settler be glad of a neighbor? Will it not benefit him more, indeed, to have that neighbor expend his \$200 — the price of the land — in improvements, than to deposit it in the United States treasury? It is altogether absurd to say that the homestead is an injustice to present settlers. It amounts to this: Because, forsooth, the Catholics of one age were persecuted, it would be unequal and unjust to extend toleration to their descendants!

A small class of opponents to this measure are found on the frontier, and their objection, distrustfully entertained and hesitatingly advanced, is, that a homestead act would attract to the new territories numerous paupers, whose inability and want of enterprise would encumber the growth of the country. To this we have to say, that a homestead act would unquestionably benefit thousands of poor families in the older States, which would be one of its beneficent features; but there need be no apprehension that a family which has the energy and can control the means to emigrate a thousand or two thousand miles to the Western frontier, will be an encumbrance to that frontier.

We would submit, however, that a question like this ought not to be decided on the arguments which can now be adduced in support of it or against it. It is a question of practical statesmanship, and the measure must be fairly tried before its wisdom can be fully determined. The experiment of donating

land to settlers in Florida, New Mexico, and Oregon is obviously not a proper test as to the benefit of a general act. Owing to the profuse supply of money while those acts were in force, the donation was relatively but half what it would now be ; and besides, a great rush of settlers to Florida could not be expected, considering that the *ostensible* purpose of the act was "armed occupation" as against the Seminoles ; nor to Oregon and New Mexico, when we reflect on the difficulties and perils of emigrating beyond the Rocky Mountains.

In conclusion, we beg leave to repeat that, in our judgment, it will be wise to give the homestead principle a fair trial. And the sooner it is tried, the better. Every one knows that the commerce of our seaboard cities diffuses its influence to the remotest limits of the country. Just as wide-spread is the benefit of agriculture ; and while its genial labors conduce to those virtues which are the ornament and security of society, its multiplied products increase the common plenty and invigorate the strength of the nation. The three great powers of Europe — England, France, and Russia — are expending millions upon millions of money in the development of the industrial resources of their vast territorial possessions. The extremes of climate cease to be an obstacle in the pathway of their enterprise. In the construction of canals for irrigation and railroads for transportation, they are converting vast areas into productive plantations. And they will seek to turn the emigration of Europe to those new fields of labor. In these conquests of peace, compared with which the triumphs of war are empty and barren, they will restore opulence to the Old World, and rear a dominion exceeding all the wonders of the ancient East in majesty and grandeur. Shall our country lag behind in the great work of physical development ? Shall we go on expending millions of dollars annually in sustaining military posts on the frontier, — posts which are inadequate to protect over-land travellers against the depredations of wandering and hostile tribes of Indians, — and leave our wide, imperial domain unoccupied and unsettled ? Rather let us adopt the more truly economical policy of encouraging their early settlement.